

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

Eric Bochene

DOB: 8/18/1971

Defendant(s)

Case: 1:21-mj-00397

Assigned To : Meriweather, Robin M.

Assign. Date : 4/23/2021

Description: COMPLAINT W/ ARREST WARRANT

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of _____ in the
 _____ in the District of Columbia, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. § 1752(a)(1) - Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority,

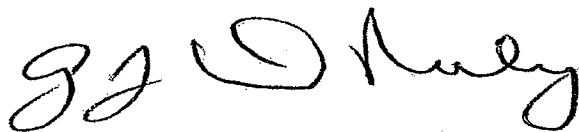
18 U.S.C. § 1752(a)(2) - Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority,

40 U.S.C. § 5104(e)(2)(D) - Violent Entry and Disorderly Conduct on Capitol Grounds,

40 U.S.C. § 5104(e)(2)(G) - Violent Entry and Disorderly Conduct on Capitol Grounds.

This criminal complaint is based on these facts:

See attached statement of facts.

☒ Continued on the attached sheet.

Complainant's signature

Gerald J. DeRuby, Jr., Officer

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
 by telephone.

Date: 04/26/2021

*Judge's signature*City and state: Washington, D.C.

Robin M. Meriweather, U.S. Magistrate Judge

Printed name and title

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STATEMENT OF FACTS

Your affiant, Gerald L. DeRuby Jr., is an Investigator with the New York State Police and is currently a Task Force Officer with the Federal Bureau of Investigation – Joint Terrorism Task Force. As a Task Force Officer, I am authorized to investigate violations of the laws of the United States and to execute search warrants issued under the authority of the United States. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of

violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

During the course of the investigation into the events of January 6, 2021, the FBI received several tips regarding ERIC BOCHENE being in the Capitol Building on the aforementioned date. The following tips were reviewed by the Albany Field Office and resulted in the opening of an investigation into BOCHENE's involvement in the events that transpired on January 6, 2021.

The FBI National Threat Operations Center (NTOC) received a tip from Tipster #1 regarding "Eric Bochenek," a/k/a "Eric Festo," 19 Pinecrest Road, New Hartford, N.Y. Tipster #1 stated that "Bochenek" called an individual known to Tipster #1 to brag that he was one of the first people into the Capitol Building in Washington, D.C. On February 16, 2021, SA Mason Hughes and your affiant interviewed Tipster #1 to potentially obtain additional information regarding the subject identified in the tip. Tipster #1 advised that the information that she/he had reported to the F.B.I. was received from Tipster #2.

On February 16, 2021 SA Mason Hughes and your affiant interviewed Tipster #2. Tipster #2 advised that Tipster #3 had provided him/her with the information that was reported to the FBI National Threat Operations Center (NTOC) by Tipster #1.

Further investigation revealed that ERIC BOCHENE, resided at 19 Pinecrest Road, New Hartford, New York.

On February 16, 2021, SA Mason Hughes and your affiant spoke to Tipster #3, a resident of New Hartford, New York. Tipster #3 advised that he/she received a telephone call from ERIC BOCHENE on January 6, 2021. During the call, Tipster #3 asked BOCHENE if he was at the White House and BOCHENE said, "yes." BOCHENE also told Tipster #3 that he had broken a window and was one of the first people inside the building.

Tipster #3 was shown a publicly available image (Picture-1) that was taken inside of the Capitol Building on January 6, 2021. Tipster #3 positively identified the individual on the far right of the picture as ERIC BOCHENE.

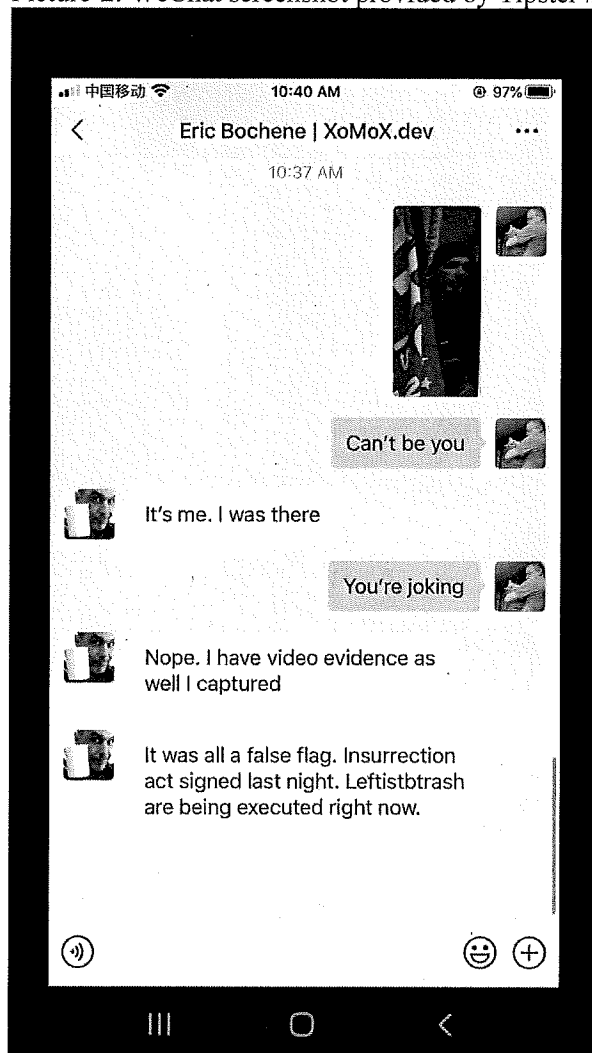
Picture-1. Publicly available image of the Capitol Building interior on January 6, 2021.



On March 10, 2021, law enforcement officers, including Task Force Officer Salih Rizvanovic and your affiant, interviewed ERIC BOCHENE at his residence, 19 Pinecrest Road, New Hartford, N.Y. BOCHENE admitted to being at the Capitol on January 6, 2021. BOCHENE invited law enforcement to enter his residence to view a video he recorded while inside the Capitol Building. BOCHENE retrieved a laptop computer, connected an external hard drive, and showed a video to your affiant. The video was approximately two minutes long and appeared to have been recorded in the same setting as depicted in Picture #1. BOCHENE was visible in the video. BOCHENE identified the voice heard speaking to the Capitol Police as his own. BOCHENE was shown a copy of Picture-1 and he identified the individual on the far right, wearing a gray cap and gray hooded sweatshirt, as himself.

An additional tip was received by the [fbi.gov/uscapitol](https://www.fbi.gov/uscapitol) online portal. Tipster #4 provided a screenshot of a WeChat between ERIC BOCHENE and an unidentified person (Picture-2). In the chat, BOCHENE shared a picture of himself that appears to have been taken inside the Capitol Building on January 6, 2021. Tipster #4 stated that the image of the man in the WeChat was BOCHENE. The setting of the picture appears to be similar to the one in Picture-1. In the chat, BOCHENE also admitted to being present inside the Capitol Building.

Picture-2. WeChat screenshot provided by Tipster #4.



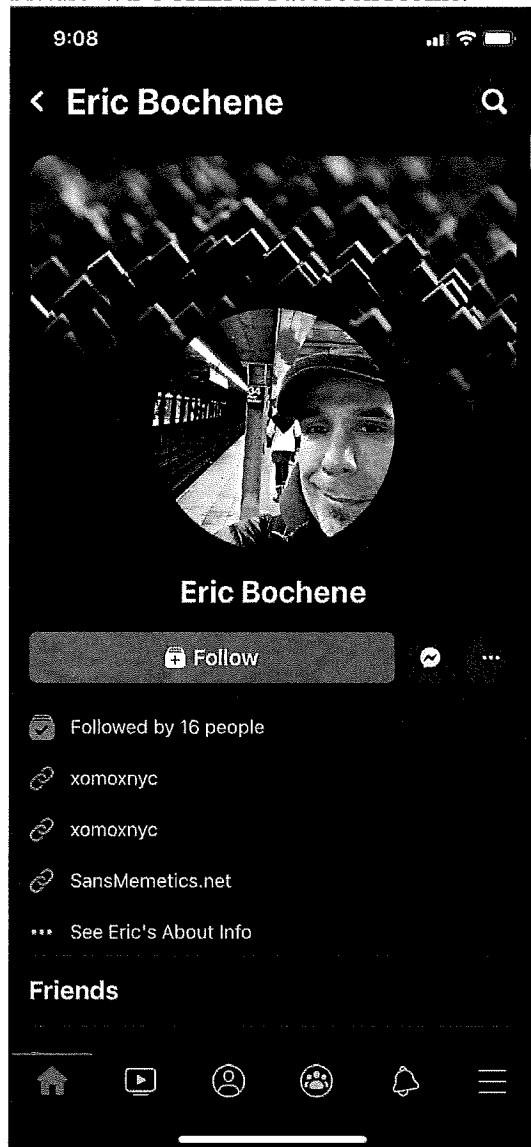
The FBI received Picture-3 and Picture-4 from Tipster #5. Tipster #5 reported that Picture-3 is a picture of ERIC BOCHENE at the Capitol on the day it was attacked. Picture-3 appears to be a cropped version of Picture-1.

Picture-3. BOCHENE at Capitol on January 6, 2021.



Tipster #5 also reported that Picture-4 was a screenshot of ERIC BOCHENE's Facebook profile picture. Tipster #5 stated that a colleague is the one that identified BOCHENE, but did not want to report BOCHENE.

Picture-4. BOCHENE Facebook Profile.



A query of New York State Department of Motor Vehicles revealed that ERIC BOCHENE has a 2016 Mazda, four door sedan, color blue, registered in his name. The vehicle bears New York Registration HHW8722. The National Capital Region Threat Intelligence Consortium advised that BOCHENE's New York Vehicle Registration, HHW8722, had been captured by License Plate Readers (LPR) five times on January 6, 2021 in Washington, D.C. The earliest time being 12:31 A.M. and the latest time being 5:06 P.M. Additionally, New York State Police License Plate Readers captured BOCHENE's license plate at approximately 9:45 P.M. on January 6, 2021, on I-81, Binghamton, New York.

Through the review of additional publicly available images, your affiant located additional images of ERIC BOCHENE, Picture-5 and Picture-6, inside the Capitol Building on January 6, 2021.

Picture-5.



Picture-6.



Based on the foregoing, your affiant submits that there is probable cause to believe that ERIC BOCHENE violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter

or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a "restricted building" includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that ERIC BOCHENE violated 40 U.S.C. § 5104(e)(2), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.



TFO Gerald J. DeRuby Jr.
Federal Bureau of Investigation – Joint
Terrorism Task Force

Attested to by the applicant by
telephone, this 26th day April 2021.



ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE